



# Spokane Tribal Natural Resources

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April 20, 2016

Maia Bellon, Director  
Washington Department of Ecology  
PO Box 47600  
Olympia, WA 98504-7600

**RE: Comments on the Washington State's 2016 Revisions to its Water Quality Standards (sent via email to: [swqs@ecy.wa.gov](mailto:swqs@ecy.wa.gov))**

Director Bellon:

On behalf of the Spokane Tribal Natural Resources Department ("Department"), please accept these comments on the Washington State Department of Ecology's ("Ecology") draft revisions to Washington State's Water Quality Standards, Human Health Criteria, and Implementation Tools ("draft revisions").

As Ecology is aware the Spokane Tribe of Indians ("Tribe") gained treatment in the same manner as a state in 2002 for purposes under the Clean Water Act, and EPA approved its first water quality standards in 2003. EPA approved the Tribe's latest WQS revisions in December of 2013. Those revisions were based on a human health criterion that included a fish consumption rate of 865 grams per day and a cancer risk rate of 10 to the minus 6. The Tribe adopted these revisions with the goal of better protection for its subsistence fishing rights within its waters, and to prepare and protect its waters for the return of anadromous fish. In reviewing Ecology's draft revisions, the Department is seeking to ensure that fish that migrate to and from the Tribe's waters are protected, and that the Tribe's reserved rights are protected from pollution originating in other jurisdictions.

First, the Department with these comments does not support, and the comments should not be construed as supporting any NPDES permits that do not meet the downstream water quality standard requirements of 40 C.F.R. Section 122.4(d). Second, the Department hereby, supports, adopts, and incorporates by reference the complete Northwest Indian Fisheries Commission comments regarding the draft Washington water quality standards revisions, which were prepared on behalf and at the behest of its member tribes, including all materials, references and records, submitted to the Washington Department of Ecology. With that said, the Department will briefly outline three specific concerns and comments on the draft revisions.

### **Implementation Tools**

In 2009, Washington State passed Substitute Senate Bill 6036. The legislation outlined very specific instances when compliance schedules would be allowed to exceed ten-(10) years. The implementation tools as drafted by Ecology would far exceed what the legislature outlined in 2009. Accordingly, the Department strongly opposes the implementation tools as written in the draft revisions.

### **PCBs**

Elevated levels of PCBs in fish tissue cause many fish consumption advisories within the State, and are also the cause of many 303d listings. Given this it is unacceptable that Ecology proposes to readopt its current PCB surface water quality criteria of 170pg/L. This standard is currently failing to protect for the designated use of harvest in the state waters and readopting it will not assist in protecting fish and the people that consume those fish. Currently, the Tribe's fish are heavily impacted by pollution that originates in Washington State, and they do not meet the Tribe's standards. Sadly the fish do not even come close to meeting the State's inadequate standards.<sup>1</sup>

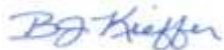
### **PCB Testing**

Ecology must require the use of EPA Method 1668C for all PCB monitoring and enforcement purposes in these revisions. The continued use of method 608 is absurd in light of its inability to detect PCB's even remotely close to the levels required by the State's current inadequate WQS.

### **Conclusion**

Overall, Ecology should redraft its revisions to work towards one of the overarching purposes of the Clean Water Act, which is "that the discharge of pollutants into the navigable waters be eliminated."<sup>2</sup> If you have any questions, feel free to contact me at 509-626-4427.

Sincerely,



B.J. Kieffer

Director

Spokane Tribal Natural Resources Department

Cc: Carol Evans, Chairwoman, Spokane Tribe Business Council  
Brian Crossley, Water and Fish Program Manager, Spokane Tribe of Indians  
Ted Knight, Special Legal Counsel, Spokane Tribe of Indians

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<sup>1</sup> Attached Declaration by Brian Crossley.

<sup>2</sup> See 33 U.S.C. Section 1251(a)(1).